



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

To: Board of Environmental Protection

From: Phil Garwood, Division of Water Quality Management, BLWQ

Date: October 7, 2010

Re: Administrative Consent Agreement – ISF Trading Company

Statutory References: Title 38, section 414(5) states it is illegal to violate the terms and conditions of waste discharge licenses issued by the Department of Environmental Protection.

Location: Portland, Maine

Description: ISF Trading operates a sea urchin processing facility on Hobson's Wharf in Portland, Maine. The roe is separated from the urchins, washed and packed for shipping. The waste water receives screening and settling before discharge into Portland Harbor, Class SC. The facility hires a contract laboratory for most of the sampling and testing of its waste water, but the licensee is responsible for proper conduct of that monitoring and reporting. This consent agreement resolves violations of sampling method requirements, reporting requirements and the requirement to submit correct and timely reports to the Department.

Environmental Significance: The MEPDES/ Maine Waste Discharge Licensing program relies heavily on self-reporting by the licensees. It is of critical importance to our program that the sampling and testing be conducted using approved methods, that the results be recorded and maintained properly and that timely, complete and correct reports are submitted to the Department. Without maintenance of high standards of performance in these matters for all licensees, the State would have no way to know whether the waste waters licensed for discharge were actually receiving the required level of treatment.

Department Recommendation: The monetary penalty has been paid. Staff recommends approval of the Agreement as presented

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

DAVID P. LITTELL

COMMISSIONER

IN THE MATTER OF

ISF TRADING COMPANY)	ADMINISTRATIVE CONSENT
PORTLAND, CUMBERLAND COUNTY)	AGREEMENT
MAINE)	38 M.R.S.A. §347-A
EIS# 2009-098-W		

This Agreement by and among ISF Trading Company ("ISF Trading"), the Maine Board of Environmental Protection, (the "Board"), and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

The parties agree as follows:

1. ISF Trading is a corporation which is organized and exists under the laws of the State of Maine, and which operates a sea urchin processing facility in Portland, Maine.
2. The Department has regulatory authority over the activities described herein.
3. ISF Trading operates its processing facility under Maine Pollutant Discharge Elimination System ("MEPDES") Permit ME0023957 and Maine Waste Discharge License #W007808 ("ISF Trading WDL"), issued by the Department on November 21, 2009, for the discharge of treated sea urchin processing and cleanup wastewaters to the tidewaters of Portland Harbor, Class SC, Maine.
4. Special Condition A(1) of the ISF Trading WDL requires sampling and testing of the facility effluent once per month for total suspended solids, oil & grease, total residual chlorine and pH, once per week for settleable solids ("SS") and once per discharge day for flow. Although effluent was being discharged during the month of June 2009, ISF Trading failed to sample and test its effluent during June 2009. ISF Trading failed to sample and test for SS during February 2010, and sampled for SS only once during the month of March 2010. Failure to sample and test effluent violates Special Condition A(1) of the ISF Trading WDL and 38 M.R.S.A §414(5).
5. Special Condition A(1) of the ISF Trading WDL requires analysis of samples according to standard methods or specific Department guidance. Specifically for total residual chlorine ("TRC"), the condition reads as follows: Total Residual Chlorine (TRC) shall be tested using Amperometric Titration or the DPD Spectrophotometric Method. The EPA approved methods are found in *Standard Methods for the Examination of Water and Waste Water*, (Most current federally approved edition), Method 4500-CL-E and Method 4500-CL-G or U.S.E.P.A. *Manual of Methods of Analysis of Water and Wastes*. During July 2009 through March 2010, the effluent samples were tested for TRC at the contract laboratory two days after sampling, which does not

AUGUSTA

17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143

ISF TRADING COMPANY
PORTLAND, CUMBERLAND COUNTY
MAINE

2) ADMINISTRATIVE CONSENT
) AGREEMENT
) AND ENFORCEMENT ORDER

comply with the methods described above that require immediate testing for TRC. Approved methods also require that pH testing must be conducted within 15 minutes of sample collection. During October 2009, pH testing was conducted more than 15 minutes after sampling. Failing to analyze samples in accordance with standard methods violates Special Condition A(1) of the ISF Trading WDL and 38 M.R.S.A §414(5).

6. Special Condition C of the ISF Trading WDL requires that data obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report Forms (DMR's). Special Condition A(1) of the ISF Trading WDL requires that "[a]ll sampling shall be representative of what is actually discharged to the receiving waters." ISF Trading submitted a DMR for the month of June 2009, and even though no data was obtained during June 2009, the licensee admitted in a letter dated August 17, 2009 that data for all parameters was made up to approximate the facility's "usual" numbers and entered on the form. The correct report for not conducting required testing during a given month is "NODI-E". During February 2010, ISF Trading submitted a DMR with numeric data entered for settleable solids even though no settleable solids testing had been conducted during that month. Submitting a DMR with data entered on the form as if sampling and testing was conducted when no monitoring was conducted violated Special Condition A(1) of the ISF Trading WDL and 38 M.R.S.A §414(5).
7. Special Condition C of the ISF Trading WDL requires that DMRs shall be postmarked no later than the thirteenth (13th) day of the month or received no later than the fifteenth (15th) day of the month following the completed reporting period. The June 2009 DMR was not submitted to the Department until August 10, 2009, and the October 2009 DMR was not submitted until November 23, 2009, thereby violating Special Condition C of the ISF Trading WDL and 38 M.R.S.A §414(5).
8. On October 2, 2009, The Department issued a Notice of Violation to ISF Trading regarding the violations identified in paragraphs 4 through 7 above that occurred prior to that date. The violations during 2010 have been discussed with ISF Trading and ISF Trading waives the requirement for notification by NOV for those violations. The parties agree that ISF Trading has been properly noticed for all respective violations herein pursuant to 38 M.R.S.A. § 347-A(1)(B).
9. This Agreement shall become effective only if it is approved by the Board and Office of the Attorney General.
10. To resolve the violations referred to in paragraphs 4 through 8, above, ISF Trading agrees to:
 - A. Beginning immediately, ensure that testing for TRC and all other parameters listed in the ISF Trading WDL are conducted in accordance with *Standard Methods for the Examination of Water and Waste Water* or specific guidance from the Department of Environmental Protection.

ISF TRADING COMPANY
PORTLAND, CUMBERLAND COUNTY
MAINE

3) ADMINISTRATIVE CONSENT
) AGREEMENT
) AND ENFORCEMENT ORDER

- B. Report all compliance testing results in accordance with the ISF Trading WDL and state environmental laws.
- C. Pay to the Treasurer, State of Maine, the sum of Six Thousand One Hundred Eighty Dollars (\$6,180.00) as a civil monetary penalty, due immediately upon signing this Agreement.
11. The Department and Office of the Attorney General grant ISF Trading a release of their causes of action for the specific violations listed in paragraphs 4 through 7 of this Agreement, on the express condition that all actions called for in paragraph 10, above, are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective unless and until the above condition is satisfied.
12. Non-compliance with this Agreement voids the release set forth in Paragraph 11 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
13. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, laws, and orders including but not limited to licensing requirements.
14. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties have executed the Agreement consisting of three (3) pages.

ISF TRADING COMPANY

BY: [Signature] DATE: 6.22.10
Title President

BOARD OF ENVIRONMENTAL PROTECTION

BY: _____ DATE: _____
SUSAN LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____ DATE: _____
JANET M. MCCLINTOCK, ASSISTANT ATTORNEY GENERAL